

SENATE BILL 620

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J3

2004 Regular Session
(4r1918)

ENROLLED BILL

-- Finance/Health and Government Operations --

Introduced by **Senators Grosfeld, Astle, Britt, Conway, Della, Dyson, Exum, Forehand, Frosh, Garagiola, Giannetti, Gladden, Hollinger, Hooper, Jones, Kelley, Lawlah, McFadden, Middleton, Pinsky, Ruben, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Money Follows the Individual Accountability Act**

3 FOR the purpose of requiring a nursing facility, under certain circumstances, to refer
4 a resident to the Department of Health and Mental Hygiene ~~or its designee~~ for
5 assistance in obtaining certain home- and community-based services; requiring
6 the Department ~~or its designee~~ to review certain quarterly assessments to
7 identify individuals indicating a preference to live in the community; requiring
8 the Department ~~or its designee~~ to provide *certain* residents ~~referred or identified~~
9 with certain information, including certain rights, and with certain assistance,
10 including assistance in moving from a nursing facility to a certain
11 community-based setting; requiring a social worker to provide information
12 regarding how to obtain certain services and including a certain list; requiring
13 certain information to be made available to a resident at a certain time; altering
14 the format for the information; repealing a requirement for a social worker to

1 provide a certain referral; repealing certain requirements imposed on certain
2 long-term care case managers; altering the proof that certain employees or
3 representatives may be required to provide; requiring the Department *and its*
4 *designee* to provide, on or before a certain date, a certain report to the Governor
5 and the General Assembly; repealing certain reporting requirements; and
6 generally relating to home- and community-based services for residents of
7 nursing facilities.

8 BY repealing and reenacting, with amendments,
9 Article - Health - General
10 Section 15-135
11 Annotated Code of Maryland
12 (2000 Replacement Volume and 2003 Supplement)

13 BY repealing
14 Chapter 303 of the Acts of the General Assembly of 2003
15 Section 3

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Health - General**

19 15-135.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) "Nursing facility" has the meaning stated in § 15-132(a)(10) of this
22 subtitle.

23 (3) "Resident" means an individual receiving long-term care in a nursing
24 facility.

25 (b) (1) A social worker shall provide to [a] EACH resident [a one-page]
26 information [sheet] that:

27 (i) Explains the availability of services under home- or
28 community-based waiver programs in the State that could enable the resident to live
29 in the community;

30 (ii) Explains that if the resident's care is partially or fully
31 reimbursed by the Program, the resident may be able to receive long-term care
32 services in the community instead of in the nursing facility;

33 (iii) Provides information regarding [the referrals to residents that
34 may provide additional information,] HOW TO OBTAIN case management services[,]
35 or evaluation services related to home- and community-based waiver programs or
36 other options for receiving long-term care services in the community; [and]

1 (iv) [Is] IF WRITTEN, IS in large, easily legible type and in formats
2 accessible to the resident; AND

3 (V) INCLUDES A LIST OF LEGAL, ADVOCACY, AND GOVERNMENT
4 AGENCY RESOURCES.

5 (2) The Department, in consultation with the State agencies that
6 implement the home- and community-based services programs, shall prepare,
7 distribute, and update as necessary the [one-page] information [sheet] required
8 under paragraph (1) of this subsection.

9 (3) The [one-page] information [sheet] required under paragraph (1) of
10 this subsection shall be made available to the resident:

11 (i) Upon admission or discharge of the resident; and

12 (ii) [At least one time annually at the request of the resident]
13 WHEN THE RESIDENT INDICATES A PREFERENCE TO LIVE IN THE COMMUNITY,
14 EITHER DURING THE RESIDENT'S QUARTERLY ASSESSMENT OR AT ANY OTHER TIME.

15 (4) The social worker shall request that the resident sign an
16 acknowledgment of receipt of the information [sheet] provided by the social worker
17 that shall be kept in the resident's medical record.

18 [(c) If a resident is unable to contact outside entities without assistance, or a
19 resident requests assistance, the social worker shall refer the resident to persons
20 from the Department that can provide information or case management services that
21 will enable the resident to learn about receiving long-term care services in the
22 community.

23 (d) The long-term care case manager at a local department of social services
24 shall:

25 (1) Provide assistance to residents and make referrals to persons that
26 may help in obtaining additional information, case management services, or
27 evaluation services related to Medical Assistance waiver programs or other options
28 for receiving long-term care services in the community;

29 (2) Provide the same information to the resident's health care
30 representative or legal guardian; and

31 (3) Ensure that a copy of the information provided is kept in a resident's
32 client file.

33 (e) When a resident indicates an interest in receiving long-term care services
34 in the community, the long-term care case manager at a local department of social
35 services shall refer the resident within 10 days to persons that will provide
36 information or case management services that will enable the resident to consider the
37 options that may be available and apply for benefits if the resident chooses.]

1 (C) IF A RESIDENT INDICATES AN INTEREST IN OR A PREFERENCE FOR LIVING
2 IN THE COMMUNITY, THE NURSING FACILITY SHALL REFER THE RESIDENT TO THE
3 DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, FOR FURTHER ASSISTANCE.

4 (D) THE DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, SHALL REVIEW
5 THE QUARTERLY ASSESSMENTS SUBMITTED TO THE CENTER FOR MEDICARE AND
6 MEDICAID SERVICES OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
7 BY EACH NURSING FACILITY THAT PARTICIPATES IN THE PROGRAM TO IDENTIFY
8 INDIVIDUALS INDICATING A PREFERENCE TO LIVE IN THE COMMUNITY.

9 (E) IF A RESIDENT WHO WOULD QUALIFY FOR HOME- AND
10 COMMUNITY-BASED WAIVER SERVICES UNDER § 15-137 OF THIS SUBTITLE
11 INDICATES AN INTEREST OR PREFERENCE FOR LIVING IN THE COMMUNITY, THE
12 DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE, SHALL PROVIDE THE RESIDENT
13 RESIDENTS REFERRED OR IDENTIFIED UNDER SUBSECTIONS (C) AND (D) OF THIS
14 SECTION WITH:

15 (1) ADDITIONAL INFORMATION REGARDING HOME- AND
16 COMMUNITY-BASED SERVICES, INCLUDING SERVICES AVAILABLE UNDER A
17 MEDICAL ASSISTANCE WAIVER AND THEIR RIGHT TO ACCESS SERVICES UNDER §
18 15-137 OF THIS SUBTITLE; AND

19 (2) ASSISTANCE IN:

20 (I) COMPLETING ANY APPLICATION FORMS OR PROCESS, AS
21 NEEDED; AND

22 (II) MOVING FROM A NURSING FACILITY TO A COMMUNITY-BASED
23 SETTING APPROPRIATE TO THE RESIDENTS' NEEDS AND EXPRESSED WISHES.

24 (f) (1) Subject to paragraph (3) of this subsection, employees or
25 representatives of protection and advocacy agencies and of centers for independent
26 living shall have reasonable and unaccompanied access to residents of public or
27 private nursing facilities in the State that receive reimbursement under the Program
28 for the purpose of providing information, training, and referral to programs and
29 services addressing the needs of people with disabilities, including participation in
30 programs that would enable individuals with disabilities to live outside the nursing
31 facility.

32 (2) Employees or representatives of protection and advocacy agencies
33 and of centers for independent living shall maintain the confidentiality of the
34 residents and may not disclose the information provided to a resident, except with the
35 express consent of the resident or the resident's legal guardian or health care
36 representative.

37 (3) Public or private nursing facilities may require the employees or
38 representatives of protection and advocacy agencies and of centers for independent
39 living to provide proof of their employment [and training] before authorizing the
40 access required under paragraph (1) of this subsection.

1 (G) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT, AND THE
2 DEPARTMENT'S DESIGNEE, SHALL REPORT TO THE GOVERNOR AND THE GENERAL
3 ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
4 ON:

5 (1) THE DEPARTMENT'S EFFORTS TO PROMOTE HOME- AND
6 COMMUNITY-BASED SERVICES;

7 (2) THE NUMBER OF NURSING FACILITY RESIDENTS REFERRED OR
8 IDENTIFIED UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION IN THE PREVIOUS
9 YEAR;

10 (3) THE NUMBER OF NURSING FACILITY RESIDENTS WHO
11 TRANSITIONED FROM NURSING FACILITIES TO HOME- AND COMMUNITY-BASED
12 WAIVER SERVICES;

13 (4) ANY OBSTACLES THE DEPARTMENT CONFRONTED IN ASSISTING
14 NURSING HOME RESIDENTS TO MAKE THE TRANSITION FROM A NURSING FACILITY
15 TO A COMMUNITY-BASED RESIDENCE; AND

16 (5) THE DEPARTMENT'S RECOMMENDATIONS FOR REMOVING THE
17 OBSTACLES.

18

Chapter 303 of the Acts of 2003

19 [SECTION 3. AND BE IT FURTHER ENACTED, That on or before January 1
20 of each year, the Secretary of Health and Mental Hygiene shall submit a report to the
21 General Assembly, in accordance with § 2-1246 of the State Government Article, and
22 to the Department of Legislative Services on:

23 (1) State efforts to promote home- and community-based services under this
24 Act; and

25 (2) the number of individuals who have transitioned from nursing homes to
26 home- and community-based waiver services.]

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2004.